IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.1275 OF 2000

1. Vilasrao M. Sasane
aged about 60 years
Occ.: Social Worker
R/o. 535, A-Ward, Shivaji Peth
Kolhapur

2. Shri Arvind Dattoba Mulik
r/o. 1795, B-Ward, Mangalwar Peth
Kolhapur

3. Vasantrao Jaywantrao Deshmukh ... Petitioners

V/s.

1. M/s.Vitthal Associates
a registered partnership firm
through its partners:
1A) Shri Santosh Chandrakant
Khuprekar, aged about 33 years,
1B) Shri Dhananjay Chandrakant
Khuprekar, r/o.1678, E-Ward
Rajarampuri, Kolhapur

2. Raghunath Vishnupant Ganbavle
r/o. 418, E-Ward, Shahpuri, Near
Apsara Talkies, Kolhapur

3. Jaywantrao Kedari Nikam
r/o. 219-D, Papachi Tikti,
Kolhapur

4. Smt.Shalini Baburao Patil
r/o.176-D, Laxmi Galli, Kolhapur

5. The Municipal Corporation of
the City of Kolhapur,
through its Commissioner
The Municipal Corporation of the
city of Kolhapur, Kolhapur

6. The State of Maharashtra ... Respondents

Mr.A.A. Kumbhakoni for Petitioners
Ms.S.M. Paranjape with S.M. Kamble for Respondent No.5
Mr.A.P. Vanarse, AGP, for Respondent No.6

CORAM: **V.G. PALSHIKAR &**
SMT.NISHITA MHATRE, JJ.

DATED: **MARCH 7, 2005**

ORAL JUDGMENT (PER PALSHIKAR, J.):

. By this Petition, the Petitioner seeks directions from this Court requiring either the Municipal Corporation of Kolhapur or the State of Maharashtra to decide once for all the status of the Kolhapur Radha Nagari road by deciding as to whether it is a public street maintained by the Corporation or a State Highway covered by the Highways Act. Affidavits in reply have been filed and it is claimed that the street is liable to be considered as a public street maintained by the Kolhapur Municipal Corporation. Yet there are contrary statements in the affidavits and the stand as to whether this road is a public road or a highway is not decided.

2. In our opinion, interests of justice would be met if the Respondent-State is directed to decide the question whether the road - Kolhapur Radha Nagari road passing through Kolhapur city is a public street, as contemplated by the Corporation’s Act or a highway, as contemplated by the Highways Act. It is necessary to direct the State to so decide the issue as the grant of permission to build varies with the street as a public street or as a highway and it is possible that discriminatory orders can be made if this aspect is not

decided. We, therefore, direct the State of Maharashtra to decide as far as possible within six months the status of the Kolhapur Radha Nagari Road passing through Kolhapur Municipal Corporation limits and issue appropriate directions for consideration of the permissions to construct or develop in accordance with its decision.

3. Petition is, accordingly, disposed off.